

IN THE COUNTY COURT OF DESOTO COUNTY, MISSISSIPPI
SPECIAL COURT OF EMINENT DOMAIN

MISSISSIPPI POWER & LIGHT COMPANY

PETITIONER

VS.

NO. 4427

J. ROBERT VINCENT; ROBIN VINCENT FISER;
ROBERT FREDERICK VINCENT; BAPTIST MEMORIAL
HOSPITAL; NATIONAL HEALTH TECHNOLOGIES,
SUCCESSOR OF AMERICAN INDUSTRIAL
DEVELOPMENT CORP.; and JAMES M. MANIRE,
TRUSTEE FOR BAPTIST MEMORIAL HOSPITAL
and NATIONAL HEALTH TECHNOLOGIES,
SUCCESSOR OF AMERICAN INDUSTRIAL
DEVELOPMENT CORP.

DEFENDANTS

JUDGMENT

In this case the claim of Petitioner, Mississippi Power & Light Company, a public corporation organized and existing under the laws of the State of Mississippi, to have condemned certain real property named in the petition and application hereafter described, the fee simple title to said property being vested in J. Robert Vincent, Robert Frederick Vincent and Robin Vincent Fiser, and deeds of trust being held by Baptist Memorial Hospital, National Health Technologies, Successor of American Industrial Development, Corp., and James M. Manire, Trustee for Baptist Memorial Hospital and National Health Technologies, Successor of American Development Corp., was submitted to a jury composed of Thomas H. Burlison, Norma J. Church, Lamona B. Day, Wanda S. Free, Flo L. Fuller, Rosalee A. Harris, Bobby E. Hobbs, William L. Hughes, Rosemary M. Johnson, Earl T. Massey, Alberta Miller and Pam Milligan, on the 27th day of May, 1987, and the jury returned a verdict fixing said Defendants' compensation and damages at \$28,000.00, and the verdict was received and entered.

This civil action was filed on April 8, 1987 in this Court, and on said date an order was entered setting this case for trial for May 27, 1987, and thereafter process

Filed 2nd day of June, 19 87
Jeannette B. Martin
Circuit Court Clerk, DeSoto County Miss.

was issued and served on all Defendants in the manner prescribed by law more than thirty (30) days prior to the date of this trial. Upon the filing of this civil action the clerk of this Court was instructed to cause a copy of the Petition for Condemnation with exhibits, Interrogatories Propounded to Defendants by Petitioner and Order Setting Hearing on Petition for Condemnation to also be served on Defendants J. Robert Vincent and Robert Frederick Vincent with the process of this Court, and a copy of the Petition for Condemnation with exhibits, Interrogatories Propounded to Defendants by Petitioner and Order Setting Hearing on Petition for Condemnation was served with the process of this Court on the remaining Defendants by mail as provided by law. The only response received from any of the Defendants were hand-written answers to interrogatories prepared and served by Defendants J. Robert Vincent, Robert Frederick Vincent and Robin Vincent Fiser and an Entry of Appearance and Disclaimer filed by First South Production Credit Association, Successor to Oxford P.C.A., and Charles Roconni, Trustee for First South Production Credit Association. On May 27, 1987 the Petitioner and its attorneys appeared in open court and announced ready for trial; however, none of Defendants were present nor did they appear for trial. Furthermore, neither the Court nor Petitioner's attorneys were ever contacted by any of the Defendants requesting that a continuance be granted from the scheduled trial date of May 27, 1987. The Petitioner having appeared and announced ready for trial and the Court having received no request from any of the Defendants for a continuance, said Defendants failing to appear for trial, testimony and evidence was presented to the jury and the aforesaid verdict was received and entered.

Now, upon the payment of said award, with legal interest from the date of the filing of the Petition, being

April 8, 1987, by Mississippi Power & Light Company, to said Defendants, or to the Circuit Clerk of Desoto County, Mississippi, for their use and benefit as provided by law and as herein ordered, Petitioner can enter upon and take possession of the hereinafter described property and appropriate it to public use as prayed for in its Petition and application, which public use is hereinafter set forth, said lands being all situated in Desoto County, Mississippi and being more particularly described as follows, to-wit:

Commencing at the southeast corner of Section 23, thence run N89°51'50"W along the south line of Section 23 a distance of 1413.49 feet to a point on the east right-of-way line of Mississippi Power & Light Company's existing 115KV transmission line, said point being 50.0 feet from (as measured perpendicular to) the centerline of said transmission line, and said point being the Point of Beginning of the parcel herein described; thence run N48°54'41"E along said right-of-way line a distance of 2725.05 feet; thence run N63°16'20"E a distance of 759.36 feet; thence run N36°11'46"E a distance of 640.11 feet to a point on the north line of the SW¼ of Section 24; thence run N89°53'22"E along the north line of the SW¼ of Section 24 a distance of 155.11 feet; thence run S36°11'46"W a distance of 762.05 feet; thence run S63°16'20"W a distance of 914.83 feet; thence run S48°54'41"W a distance of 2469.89 feet to a point on the south line of Section 23; thence run N89°51'50"W along the south line of Section 23 a distance of 136.57 feet to the Point of Beginning. This parcel contains 9.78 acres more or less.

The use and purpose for which the property above-described is taken is for a right-of-way and easement with all the privileges and rights of enjoyment and use thereof accorded and given under the laws of the State of Mississippi, including the following rights and subject to the following limitations:

For the location, construction, reconstruction, operation, maintenance and removal of an electric circuit or circuits, including towers, poles, cross-arms, insulators, wires, cables, guy wires, anchors, hardware, transformers,

switches and all other equipment, structures, material and appliances now or hereafter used, useful or desired in connection therewith, over, across, under and on that land herein described. Included in this right-of-way and easement, Petitioner shall have the full right, without payment of further compensation, of ingress and egress across the subject property to said right-of-way, the right to install and maintain guy wires and anchors beyond the limits of said right-of-way and to clear, and keep clear, said right-of-way, including the right to cut down, burn, condition, treat or otherwise, remove all trees, timber, undergrowth and other obstructions. Petitioner shall have the full right, without payment of further compensation, to cut down all trees that are tall enough to strike the wires in falling, where located beyond the limits of said right-of-way, such trees being known as "danger trees." Petitioner shall have the further right to cut down, from time to time, danger trees located beyond the limits of the said right-of-way, provided Petitioner shall pay Defendants or their successors in title the reasonable market value of such danger trees at the time of cutting, but only when such cutting occurs after the completion of the power line construction as above set forth. In addition thereto, Defendants or their successors in title, shall have the right to use the land in question for agricultural or other purposes as long as said purposes do not interfere with the rights herein created in Petitioner, and Petitioner retains the right to clear, cut down or destroy any crops on said Petitioner's right-of-way, if necessary, but Petitioner will pay to Defendants, or their successors in title, the reasonable market value of said agricultural crop at the time of said clearing or cutting, but only when such clearing or cutting occurs after completion of the power line construction as above set forth.

Petitioner also acquires such title that there will not be constructed, or permitted to be constructed, any house, barn, well, lake or other structure or hazard on said right-of-way.

Defendants, or their successors in title, shall have, at all times, the right to use the said right-of-way for any lawful purpose, provided it does not interfere with the rights herein created in Petitioner, and Petitioner will not enclose said right-of-way.

A certified copy of this Judgment shall be filed, recorded and indexed, in the same manner as a land deed, upon the land records on file in the Office of the Chancery Clerk of Desoto County, Mississippi.

The clerk of this Court is further instructed to mail a copy of this Judgment and the applicable appeal statute to Defendants J. Robert Vincent, Robert Frederick Vincent and Robin Vincent Fiser.

Let the Petitioner pay the cost, for which execution may issue.

ORDERED AND ADJUDGED on this the 2nd day of June, 1987.

M. E. Barber
COUNTY COURT JUDGE

STATE OF MISSISSIPPI
DE SOTO COUNTY
I, Jeanette B. Martin, Clerk of the Circuit Court in and for said county and state, hereby certify that the foregoing is a true and correct copy of the Order as same appears on file or of record in Book 151 Page 6 of the Records of DeSoto County, Mississippi.
Witness my hand and official seal this the 2nd day of June, 1987.
Jeanette B. Martin
Circuit Clerk, DeSoto County

Filed @ 11:30 A.M. June 2, 1987
Recorded in book 196 Page 24
H. G. Ferguson, Chancery Clerk